

# **Freedom to contract and its restriction in business obligations**

## **(Summary)**

This thesis deals with freedom to contract and its limitations in the field of business obligations. It introduces the possibilities that parties have when entering into contracts as well as it outlines the boundaries which they cannot cross. It aspires to clarify the topic by referring to a wide scope of related judicial decisions which have evolved throughout the years.

The first chapter briefly describes and classifies business obligations; hence it specifies cases in which freedom to contract and its restriction apply. The second chapter then characterizes freedom to contract and sets it to the context of other fundamental principles governing private law. It also clarifies the normative roots of this freedom and describes the nature of legal rules that can be freely deviated from in a contract. The following chapter reviews particular manifestations of freedom to contract with special focus on free determination of contract's content.

The last chapter looks into various kinds of restrictions that limit contracting parties entering into business obligations. It deals with certain issues regarding mandatory rules and mentions some formal requirements regarding legal acts. Then the analysis of restriction of freedom to contract set by statutory provisions ensues. More light is shed upon the developing concept of qualified violation of law which enforces the absolute nullity of contracts only to the most substantial cases of legal transgression. An important part of this work concerns with the institute of good morals and fair business which both serve as important criteria when punishing behavior that is not strictly contrary to law, but due to its obvious unfairness is considered legally undesirable.

This paper emphasizes a need to vest the greatest possible amount of freedom to contract in parties, because primarily a free self-determination of one's own legal status may lead to full satisfaction of individual's complex economical and other needs. At the same time, however, it stresses the necessity of judicial protection against the abuse of freedom that goes at the expense of justice, since an individual must in certain exceptional cases give way to public interest as well.